



Crl.R.C(MD)No.7 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.7 of 2018

Saravanan

... Petitioner/Appellant/Accused

Vs.

State Rep by its
The Sub Inspector of Police,
Theni Police Station,
Theni District.
(In Crime No.397 of 2022)

...Respondent/Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the Judgment passed in C.C.No.43 of 2013 on the file of the learned Chief Judicial Magistrate, Theni, on 04.06.2014 which was confirmed in Criminal Appeal No.28 of 2014 dated 08.11.2017 by the learned Principal District and Sessions Judge, Theni, and set aside the same and thereby acquit the accused.

For Petitioner : Mr.A.Uthayakumar

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)



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ORDER

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The revision has been filed to set aside the Judgment passed in Criminal Appeal No.28 of 2014, dated 08.11.2017, on the file of the learned Principal District and Sessions Judge, Theni, arising from C.C.No.43 of 2013, dated 04.06.2014 on the file of the learned Chief Judicial Magistrate, Theni and acquit the petitioner from all the charges levelled against him.

2.The case of the prosecution is that on 19.07.2011 at about 09.00 p.m, the deceased was riding his two wheeler bearing Reg.No.TN-60-6250 Bajaj M-80 along with one billion rider namely, Velpandian. The accused had driven his auto in front of the two wheeler. Suddenly, without any signal, he turned his auto on right side. Therefore, the deceased hit the auto and fell down and sustained grievous injuries on his head. Immediately, he was taken to the hospital. However, he died on 21.07.2011.

3.On the complaint, the respondent registered a case in Crime No.397 of 2011 and after completion of the investigation, filed a final report before the Chief Judicial Magistrate, Theni, and the same has been taken cognizance in C.C.No.43 of 2013 for the offence under Section 304 (A) of I.P.C.



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4.In order to prove the case, the prosecution had examined P.W.1 to P.W.7 and marked Exs.P.1 to P.9 and on the side of the accused, no one was examined and no exhibit was marked.

5.On perusal of the oral and documentary evidence, the trial Court found the petitioner guilty for the offence under Section 304(A) of I.P.C and he was sentenced to undergo 2 years Simple Imprisonment and imposed a fine of Rs.5,000/-, in default to pay the fine, shall undergo three months Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.28 of 2014 on the file of the learned Principal District and Sessions Judge, Theni, and the Appellate Court also confirmed the conviction and sentence imposed by the trial Court and dismissed the appeal. Hence, the present revision.

6.The learned counsel appearing for the petitioner would submit that both the Courts concurrently held and convicted the petitioner for the offence under Section 304(A) of IPC. Now, he has stopped the profession of driving auto and undergoing for daily wages. Anyway, the petitioner is willing to give some reasonable amount as compensation to the deceased's family as directed by this Court.



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7.Perusal of records reveals that the petitioner had driven his auto in a rash and negligent manner and without giving any signal suddenly turned his auto on his right side. Hence, the deceased hit the auto and fell down from the two wheeler and sustained head injuries. P.W.1, the billion rider of the two wheeler lodged a complaint before the respondent police and FIR has been registered for the offence under Section 279 and 304(A) of IPC. The complainant namely, the billion rider, who examined as P.W.1 categorically deposed that due to the rash and negligent driving of the auto driver, accident was happened and as such, the deceased hit the auto and fell down. Due to his fell, he sustained head injuries. Immediately, he was taken to the hospital. But, he succumbed to his injuries and died after 2 days of admission. Therefore, the prosecution proved its case beyond any doubt and the Courts below rightly convicted the petitioner for the offences under Sections 304(A) of I.P.C.

8.The learned counsel appearing for the petitioner would submit that the sentence may be reduced to the period which he had already undergone on payment of some compensation to the deceased's family.



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9.In view of the above, the conviction passed by the trial Court for the offences under Sections 304(A) of I.P.C is hereby confirmed. In so far as the sentence for the offence under Section 304(A) of I.P.C is concerned, it is modified as compensation. Hence, the petitioner is directed to pay a sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) by way of Demand Draft to the deceased's family directly and produce the receipt before the respondent on or before 24.04.2023, failing which, the sentence imposed by the Court below is hereby restored and the respondent is directed to secure the petitioner and send him for serving remaining period of sentence.

10.Accordingly, this Criminal Revision Case is partly allowed.

23.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
dss



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G.K.ILANTHIRAIYAN, J.

dss

To

- 1.The learned Chief Judicial Magistrate,
Theni.
- 2.The learned Principal District and Sessions Judge,
Theni.
- 3.The Sub Inspector of Police,
Theni Police Station,
Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.R.C(MD)No.7 of 2018

23.03.2023